

Title 33 Mental Health and Intellectual and Developmental Disabilities
Chapter 2 Services and Facilities
Part 12 Personnel and Volunteers

Tenn. Code Ann. § 33-2-1202 (2011)

33-2-1202. Organizations to perform background checks on employees.

(a) As used in this section and § 38-6-109, "organization" means a facility or service licensed under chapter 2, part 4 of this title.

(b) Each organization shall have a criminal background check performed on each employee whose responsibilities include direct contact with or direct responsibility for service recipients. The organization shall inform the employee that it will conduct a background check. Within ten (10) days of employment or within ten (10) days of a change of responsibilities that includes direct contact with or direct responsibility for service recipients, the employee shall:

(1) Provide past work history containing a continuous description of activities over the past five (5) years;

(2) Identify at least three (3) individuals as personal references, one (1) of whom shall have known the applicant for at least five (5) years;

(3) Release all investigative records to the organization for examination for the purpose of verifying the accuracy of criminal violation information contained on an application to work for the organization; and

(4) (A) Supply fingerprint samples to be submitted for a criminal history records check to be conducted by the Tennessee bureau of investigation or the federal bureau of investigation; or

(B) Release information for a criminal background investigation by a state licensed private investigation company.

(c) (1) The organization shall check past work and personal references prior to employment of applicants. At a minimum the organization shall communicate directly with the most recent employer and each employer identified by the applicant as having employed the applicant for more than six (6) months in the past five (5) years. The organization shall communicate directly with at least two (2) of the personal references identified by the applicant. Within or prior to ten (10) days of employment of the person, organizations shall submit the information required to be provided by this subsection (c) to the entity that will conduct the criminal background check.

(2) The provisions of subsection (b) and this subsection (c) shall not apply to organizations which contract with the division of intellectual disabilities services for residential services, day services or supported employment services and such organizations shall comply with the provisions of subsection (e).

(3) The organization shall check the registry maintained by the department of health pursuant to § 68-11-1001 prior to employment of applicants or their use as a volunteer in the organization. No individual who is listed on the registry may be hired or otherwise permitted to provide services in the organization.

(d) Any cost incurred by the Tennessee bureau of investigation, the federal bureau of investigation, or a state licensed private investigation company shall be paid by the organization requesting the investigation and information. If the background check is conducted by the Tennessee bureau of investigation or the federal bureau of investigation, the payment of the costs shall be made in the amounts established by § 38-6-103.

(e) (1) Notwithstanding the provisions of subsection (b), only with respect to organizations which contract with the division of intellectual disabilities services for residential services, day services or supported employment services, each such organization shall have a criminal background check completed prior to employing any person who will be in a position that involves providing direct care to a service recipient. If a current employee of such organization has a change of responsibilities that includes direct care to a service recipient, then the organization shall have a criminal background check completed prior to such change. The organization shall inform the employee that it will conduct a background check. The employee shall:

(A) Provide past work history containing a continuous description of activities over the past five (5) years;

(B) Identify at least three (3) individuals as personal references, one (1) of whom shall have known the applicant for at least five (5) years;

(C) Release all investigative records to the organization for examination for the purpose of verifying the accuracy of criminal violation information contained on an application to work for the organization; and

(D) (i) Supply fingerprint samples to be submitted for a criminal history records check to be conducted by the Tennessee bureau of investigation or the federal bureau of investigation; or

(ii) Release information for a criminal background investigation by a state licensed private investigation company.

(2) An organization which contracts with the division of intellectual disabilities services for residential services, day services or supported employment services shall check past work and personal references prior to employment of applicants. At a minimum such organization shall communicate directly with the most recent employer and each employer identified by the applicant as having employed the applicant for more than six (6) months in the past five (5) years. The organization shall communicate directly with at least two (2) of the personal references identified by the applicant. Prior to employment, the organization shall submit the information required to be provided by this subsection (e) to the entity that will conduct the criminal background check.

(3) An organization which contracts with the department of intellectual and developmental disabilities shall check the registry maintained by the department of health pursuant to § 68-11-1001 prior to employment of applicants or their use as volunteers in the organization. No individual who is listed on the registry may be hired or otherwise permitted to provide services in the organization.

HISTORY: Acts 1996, ch. 993, § 1; 1997, ch. 305, § 1; 1999, ch. 466, § 1; T.C.A., § 33-1-209(c); Acts 2000, ch. 981, § 53; 2000, ch. 947, § 1; 2010, ch. 1084, §§ 3, 4; 2011, ch. 165, §§ 1, 2.